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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

No. 678

EMERSON F. MINNIE,

Petitioner,

vs.

PORT HURON TERMINAL COMPANY AND FIDELITY AND CASUALTY COMPANY OF NEW YORK,

Respondents.

SUPPLEMENTAL BRIEF SUPPORTING PETITION FOR WRIT OF CERTIORARI.

Believing we have failed to fully present a point set forth on page 6 of petitioner's original brief, we respectfully request consideration of this supplemental brief which we address to the same point.

ARGUMENT.

It is undoubtedly true that, if the present judgment of the Michigan Supreme Court is not reversed or set aside, petitioner can proceed under Federal maritime laws against respondent Terminal Company, and that in any such action respondent Terminal Company would be estopped because

of its having pleaded the opposite in the State courts to assert or claim that petitioner's injuries were not sustained within maritime jurisdiction. But, assuming that the present judgment of the Michigan Supreme Court is permitted to stand, petitioner must nevertheless meet in the maritime courts a jurisdictional defense that his injuries were sustained on land. We say this because the only adequate remedy open to petitioner within maritime jurisdiction is against the steamship "Laurendoc" or its owners instead of respondent Terminal Company. Our reasons for this statement are as follows:

Petitioner has no adequate remedy against respondent Terminal Company under the Longshoremen's & Harbor Workers' Compensation Act because, as shown by the official records of the United States Employees' Compensation Commission, respondent Terminal Company did not qualify with insurance under that Act until October 21, 1933. Thus, if petitioner were to proceed against respondent Terminal Company as authorized by the Longshoremen's Act, either for damages or for an award of compensation, he would necessarily have to collect his judgment or award from it, and not from an insurer. Without asserting because it is not of record the uncollectibility of a judgment or award against respondent Terminal Company under the Longshoremen's Act, we ask this Court to consider that possibility in determining whether the prayed for writ is to be issued.

With these considerations in mind, we submit that any action petitioner might bring in the admiralty courts against the steamship or its owners would rightfully be defeated on the facts as they appear in this case on the ground that petitioner was injured without the jurisdiction of the maritime. This being so, petitioner again respectfully reiterates his contention that he may lose all remedy for his injuries if the present judgment of the Michigan

Supreme Court is not reversed and set aside, and that the Michigan Supreme Court has decided a reviewable Federal question in a way not in accord with the clear and definite decisions of this court, notably *L'Hote* v. *Crowell*, 286 U. S. 528, 529, 76 L. Ed. 1270.

Respectfully submitted,

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